

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

United States of America,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	CASE NO. 1:21-cv-796-RP
The State of Texas,)	
)	
Defendant.)	

DECLARATION OF AMY HAGSTROM MILLER
IN FURTHER SUPPORT OF PLAINTIFF'S MOTION FOR A PRELIMINARY
INJUNCTION

AMY HAGSTROM MILLER hereby declares under penalty of perjury that the following statements are true and correct:

1. I am the President and Chief Executive Officer (“CEO”) of Whole Woman’s Health, LLC (“WWH”) and Whole Woman’s Health Alliance (“WWHA”).

2. Since submitting my first declaration in this case on September 14, the situation at our clinics and for our patients has only further deteriorated. Every day that S.B. 8 is in effect we turn away patients in droves. Most patients that call for appointments are already so far past S.B. 8’s limit that we cannot help them, and we turn them away before they even come into the clinic. Even among the patients who come to the clinic because they are either under 6 weeks LMP or don’t know their LMP, we have found that most of their pregnancies (56%) already have cardiac activity and we must turn them away. Some of these patients are able to travel out of state, but their care is significantly delayed, usually by weeks. The majority of our patients remain unable to travel out of state and must stay pregnant against their will—the are left hoping that we will be able to resume full services soon and they will still be able to get the abortion they need in Texas before their pregnancies advance over Texas’s preexisting legal limit.

3. We are anxiously awaiting this court's ruling and the hope of receiving an injunction in this case is one of the only things that is keeping us going day to day.

4. WWH and WWHA's clinics in Texas will resume providing pre-viability abortion to patients whose pregnancies have cardiac activity up to the pre-existing legal limit for our clinics if and when a preliminary injunction is entered in this case. In fact, this week our physicians have been using their discretion to provide patients whose pregnancies are found to have cardiac activity with all state-mandated information to comply with Texas's 24-hour mandatory delay, so that if and when a preliminary injunction is entered, we will be ready to call those patients to come in for abortions.

5. As explained in my prior declaration, I have had personal conversations with the majority of independent abortion clinics in Texas regarding S.B. 8. I can affirm that like WWH/WWHA, many providers will resume pre-viability abortion services to patients with cardiac activity up to the legal limit in Texas (17.6 weeks LMP or 21.6 weeks LMP, depending on the type of clinic) if and when a preliminary injunction is entered in this case. While we continue to have concerns about liability under S.B. 8 if the injunction is later reversed, neither we nor our patients can wait the months or even years for completion of all S.B. 8 litigation to resume services. If this Court issues an injunction, we intend to follow the Court's order and resume services.

6. To my knowledge only one abortion in violation of S.B. 8 has occurred since September 1. The doctor who performed that abortion, Dr. Alan Braid, is a long-time friend and colleague who violated the law a single time at great personal risk to himself to his staff.¹ Dr. Braid has already been sued by three separate claimants, and an anti-abortion organization has also submitted a complaint to the Texas Medical Board threatening his medical license.² Clinics will close long before

¹ Alan Braid, *Opinion: Why I Violated Texas's Extreme Abortion Ban*, Washington Post (Sept. 18, 2021), <https://www.washingtonpost.com/opinions/2021/09/18/texas-abortion-provider-alan-braid/>.

² See Cheryl Sullenger, *Complaint Seeks Emergency Suspension of Texas Abortionist's Medical License After He Confessed to Breaking the Texas Heartbeat Act*, Operation Rescue (Sept. 20, 2021), <https://www.operationrescue.org/archives/complaint->

the cases against Dr. Braid are fully litigated in state court. Dr. Braid has since returned to complying with S.B. 8. His experience shows why simply violating S.B. 8, getting sued, and waiting to fully litigate those cases is no solution to the unconstitutionality of S.B. 8.

Dated: September 30, 2021

/s/ Amy Hagstrom Miller
AMY HAGSTROM MILLER

[seeks-emergency-suspension-of-texas-abortionists-medical-license-after-he-confessed-to-breaking-the-texas-heartbeat-act/?utm_campaign=shareaholic&utm_medium=twitter&utm_source=socialnetwork](https://www.theguardian.com/commentisfree/2021/sep/26/texas-doctor-abortion-sued-pro-lifers-backpedaling). Moira Donegan, *Two Disbarred Lawyers Sued a Texas Doctor Who Performed an Abortion. Flustered "Pro-Lifers" are Backpedaling*, The Guardian (Sept. 26, 2021), <https://www.theguardian.com/commentisfree/2021/sep/26/texas-doctor-abortion-sued-pro-lifers-backpedaling>.